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18 May 1987
OCA 87-2049

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NOTE FOR: The Acting Director
THROUGH: Executive Director
FROM: Dave Gries
SUBJECT: Intelligence Authorization Bill

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[] has asked you to press for inclusion of two additional provisions in this year's Intelligence Authorization Bill. These provisions would clarify the authority of the DCI to deal with drug and alcohol abuse by employees and exempt security decisions from administrative and judicial review. While there is merit in both proposals, continuing to press for their inclusion at this time is impractical. This is a case where we tried hard and lost.

The drug and alcohol provision has been included in the Administration's version of the Intelligence Authorization Bill for the last three years. Each year the oversight committees have rejected the proposal because they believe the DCI already has sufficient authority in this area. This year both committees have again rejected the proposal.

Regarding review of security determinations, we are still awaiting OMB's decision on your reclama. The committees are aware of OMB's opposition, and they will not move in the face of it.

I suggest we wait until next year and try again.

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Attachment 1

TITLE IV - ENHANCED PERSONNEL SECURITY

SEC. 401.

(a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of Section 16 the following new section:

"SEC. 17. In its discretion, the Agency may, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information; refuse to hire any applicant for Agency employment; and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(b) The National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by redesignating section 2 as section 2(a), and by adding at the end thereof the following new subsection:

"(b) The Secretary of Defense (or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any individual access to classified information; refuse to hire any applicant for Agency employment; and terminate, suspend, or place limitations or conditions on the continued employment of any Agency employee, notwithstanding any other provisions of law."

(c) Section 1604 of chapter 83 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of Defense (or his designee for the purpose) may, in his discretion, on the grounds of prior or current alcohol or drug abuse, deny to or remove from any civilian officer or employee of the Defense Intelligence Agency access to classified information; refuse to hire any applicant for employment with the Defense Intelligence Agency; and terminate, suspend, or place limitations or conditions on the continued employment of any Defense Intelligence employee, notwithstanding any other provisions of law."

Clarification of Security Authorities

SEC. 403. The National Security Act of 1947 is amended by adding at the end thereof the following new section.

Sec. 703. Notwithstanding any other provisions of law, the head of any agency defined in 5 U.S.C. 552(e) may, in his discretion, deny or revoke access to information classified pursuant to Executive order or statute whenever the agency head certifies that such access is not clearly consistent with the interests of national security. The agency head's certification, and any action taken by the agency head pursuant thereto, shall be final and conclusive and not subject to review on any basis in any court, federal or state, or by any administrative agency.